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SENT TO COUNCIL: MAY 2 7 2004

by Council Liaison's Office

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: 05-24-04

Approved [signature] Date 5.26.04

INFORMATION

SUBJECT: CONCERNS ABOUT FEDERAL ACTIONS THAT MAY RESULT IN DISPLACEMENT OF SECTION 8 VOUCHER HOLDERS

SUMMARY

On April 22, 2004, the U.S. Department of Housing and Urban Development (HUD) released a notice saying it would no longer reimburse local housing authorities based on actual current costs of the Section 8 Housing Choice Voucher Program. Instead, HUD has stipulated that it will issue payments based on the vouchers under lease on August 1, 2003, adjusted for inflation. This sudden change in Administration policy related to the Program may leave many local housing authorities, including the Housing Authority of the County of Santa Clara (HACSC), short of the funds needed to cover all vouchers currently in use.

BACKGROUND

Federal tenant-based rental assistance (Section 8) was established as part of a major restructuring of federal housing assistance for low-income families in the 1970s. Congress created Section 8 of the U.S. Housing Act, which had two components: project-based assistance that supported new construction and substantial rehabilitation, and tenant-based assistance. Housing Choice Vouchers are tenant-based, which means that Vouchers are issued to eligible households to help them pay the rent on privately owned units of the households' choosing.

Section 8 vouchers are one of the major federal programs that are intended to bridge the gap between the cost of housing and the incomes of low wage earners and people on limited fixed incomes. Housing vouchers are portable, meaning tenants can use them to move nearly anywhere in the country where there is a functioning voucher program.

The Housing Choice Voucher program is administered by Public Housing Authorities, but various other entities, like the City of San José, also manage voucher programs. The City of San José contracts with the Housing Authority of the County of Santa Clara (HACSC) for the administration of the City's Vouchers.

ANALYSIS

The change recently proposed by HUD, although just announced, will be retroactive to the beginning of the year, further compounding local housing authorities' difficulties. In particular, the Housing Authority of Santa Clara County anticipates that the loss of funding would equal approximately $2 million, countywide. This loss of money will mean extreme hardship to residents of our County and the City of San José. The change in HUD's policy made retroactively could potentially result in the loss of up to 2,000 Vouchers, effecting nearly 8,000 adults and children in the County. In the attached memo from the Executive Director of the HACSC, Alex Sanchez, a more detailed scenario is given regarding these potential cuts (Attachment A).

CITY'S ACTION

The Housing Department, in conjunction with the Director of Intergovernmental Relations, has enlisted the City's federal lobbyist, Patton Boggs, in lobbying against these harmful changes to the Section 8 program. To date, the City's lobbyist has worked to develop a focused coalition with other large, high-cost localities in order to coordinate and leverage their advocacy efforts. Those other cities include Los Angeles, Fresno, San Diego, and San Francisco, as well as New York, Boston, Los Angeles, Denver, and Miami. Additionally, the City's lobbyist continues to coordinate with the California League of Cities, California State Association of Counties, the Executive Director of the HACSC, National Association of Housing and Redevelopment Officials (NAHRO), and other low-income housing advocacy groups in Washington, D.C.

The City's lobbyist communicated the City's position and impact analysis directly to committee staff, as well as the local congressional delegation. The City's lobbyist has been working with Governor Schwarzenegger's Washington, D.C. office to secure proactive support from the Governor, and with other California stakeholders to generate a coordinated response from the California Congressional Delegation. Representatives Mike Honda, Zoe Lofgren, Anna Eshoo, and House Minority Leader Nancy Pelosi have all agreed to sign onto a joint letter to HUD expressing opposition to these retroactive changes to the Program. The City's lobbyist continues to work with local California stakeholders and the Governor's office in the hopes of making this a bipartisan letter. Additionally, Senators Barbara Boxer (D-CA) and Dianne Feinstein (D-CA) are aware of the problem, and they are expected to sign onto a multi-state letter to HUD shortly.

Several other Members of Congress have begun to formally express their concerns about these changes. Senate VA-HUD Appropriations Committee Chairman Christopher Bond (R-MO) and Ranking Member Barbara Mikulski (D-MD) sent individual letters to HUD expressing opposition to the new policy. Senators Paul Sarbanes (D-MD) and Susan Collins (R-ME), who led Senate efforts to include more funding for Section 8 in FY2004 appropriations, also generated a letter to HUD. Some Representatives from a few states, including Massachusetts, New Hampshire, and Ohio, sent letters to HUD or the relevant House committees of jurisdiction.

The City's lobbyist will continue to work on a joint, bipartisan letter regarding the loss of Section 8 Vouchers. Recently, Mayor Gonzales also signed onto a joint letter and resolution from the US Conference of Mayors (USCM), which urges HUD to reconsider its FY 2004 renewal funding formula and fully fund every Section 8 Voucher.

Additionally, staff is reviewing legislation recently introduced, H.R. 4263 by Representative Barney Frank (D-MA), which would fully fund the Section 8 program to counteract the new HUD policy. The Housing Department will bring this legislation forward to the Rules Committee with a recommended position in June 2004.

LESLYE CORSIGLIA
Director of Housing

Attachments

HOUSING AUTHORITY OF THE COUNTY OF SANTA CLARA

Memo

To: Board of Commissioners

From: Alex Sanchez, Executive Director

Date: April 26, 2004

Re: Status of HUD/Section 8 Funding – Crisis Felt Throughout the Nation

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<u>INFORMATION ONLY</u>

<u>Introduction</u>

There is unprecedented budget and policy activity occurring in Washington, D.C., all of which directly and immediately affects our Agency and agencies across the country. Recent press coverage of regulatory decisions by HUD – and of specific and severe impacts felt in Los Angeles and Boston, for example – illustrates the current Administration's broader goal to alter the federal commitment to affordable housing.

To set the stage for our Agency's fiscal year 2004-05 budget preparations, this memo offers a brief update on the status of the Section 8 program in our Agency and at the federal policy level. While we have relatively good news about our over-leasing situation, the bigger budget picture is discouraging at best.

<u>Background and Analysis</u>

<u>Over-leasing</u>: The most important news for the Agency is that after months of analysis and aggressive communication with HUD about our Section 8 over-leasing situation, HUD has made specific financial commitments in writing. These commitments – which essentially confirm access to our Agency's program reserves – will go a long way toward filling our current-year budget gap. This budget shortfall, faced by many agencies across the country, was caused by a combination of several factors that occurred in a relatively brief timeframe: a softened rental market, temporary over-

leasing (previously encouraged by HUD), lower than expected attrition, and regulatory reversals approved by Congress.

We received additional, promising information from HUD during a conference call last week. Staff continues to hammer out the details, and we are optimistic that at least this aspect of our immediate budget challenge—covering the cost of leased units exceeding our budget authority and unit month maximums—is now receiving adequate attention from HUD.

HUD's Retroactive Cut in Voucher Funding: Just last Friday, HUD issued guidelines for a *retroactive* change in the method HUD uses to pay agencies' Section 8 costs. HUD will now reimburse agencies' voucher costs (housing assistance payments) based on their costs in August 2003, not on *actual* costs as is currently done. While an inflation factor will be added, it appears to be inadequate for many housing markets, including ours. Agencies across the country, just now digesting this news, are wondering if they'll be forced to drop tenants from the program in order to balance their current year's budget. NAHRO (National Association of Housing and Redevelopment Officials) analysts estimate that at least 900 local housing authorities across the country will come up short. The head of the Boston Housing Authority, Sandra Henriquez, is quoted in a Washington Post article last week: "We're all just hoping HUD will come to its senses." *(See attached article, dated April 21, 2004)*

This ruling by HUD is an interpretation of the Section 8 renewal formula language in Congress' FY 2004 Omnibus Appropriations Conference report. This interpretation is being widely criticized by affordable housing advocates and members of Congress who fought to sustain Section 8 funding this year. In a letter to HUD Secretary Alphonso Jackson, Senator Barbara Mikulski states that she is "shocked" to hear of this HUD ruling. "This is unacceptable. ... I support the goal of controlling the costs of the Section 8 program, and of making sure that HUD does not pay inflated costs for Section 8 vouchers. However, the Department (HUD) runs the risk of going to the other extreme; by not providing adequate funds to public housing authorities, the Department could force families to lose their vouchers, or concentrate voucher holders in the poorest neighborhoods." *(See attached letter, dated April 21, 2004)*

The risks cited by Mikulski and many others are becoming a reality. In Los Angeles, the housing authority has recently increased the minimum payment that a tenant must make (regardless of their income), and has decreased the amount of subsidy per tenant family. Ultimately, these policy shifts can "ghettoize" the Section 8 program. *(See attached L.A. Times article, dated April 6, 2004)*

Over the next few weeks our staff will be analyzing the impact on our Agency of this new renewal method. We will also be trying to clarify access to HUD's central fund, which Congress intended to be used for agencies whose actual costs have risen above the August 2003 benchmark and federal inflation factor. The long-term impact of this new renewal formula is of even greater concern, as it appears to create a built-in misalignment of predicted and actual costs in a dynamic economy.

"Closed" Program: Our Agency has regularly used surplus Section 8 administrative fees to support related functions within the Agency. Examples of these activities include: staffing to manage units funded with low-income housing tax credits; housing-related community services within the County; and advanced funds for pre-development expenses and other development-related activities. Congress and HUD are now restricting such uses of Section 8 funds, and the impact on our Agency will be fairly significant in the coming fiscal year. We are currently obtaining a legal opinion about our options in this area, and will be developing alternative budget scenarios to reflect this new reality.

Administration's Fiscal Year 2005 Budget Proposal: Congress and housing advocates are currently debating the Bush Administration's proposed HUD budget for FFY 2005 (October 1, 2004 through September 30, 2005). While it will be months before a final HUD budget is adopted, we must begin to plan for the worst case scenario. Building on a pattern of cuts and program restrictions, the proposal – which highlights a new "Flexible Voucher Program" model – is being criticized for offering an unbalanced trade of new flexibility in Section 8 program management for significantly reduced funding over the next few years (about $1 billion less nationwide in the first year). Affordable housing advocates also object to the proposed relaxing of a current requirement that the vast majority of vouchers go to the poorest families.

The FFY 2005 budget is clearly a moving target. We will continue to carefully track the debate in Washington, D.C., and to advocate for a Section 8 program that supports all vouchers currently in use. *(See attached items: Washington Post article, dated April 13, 2004, and letter from industry groups to HUD Secretary Alphonso Jackson, dated February 20, 2004.)*

Conclusions

We appear to have entered a new and especially challenging era in the federal commitment to affordable housing. If there is any silver lining here, it is the fact that we are not entering this new era alone. Local housing authorities across the country are actively communicating and sharing strategies, and industry advocates and the press are out in front of the issues.

With all of the recent—including retroactive—shifts in federal policy and funding, we continue to be cautiously optimistic in working with HUD to ensure that our Agency's current-year budget is in balance. Beyond that, we face significant hurdles in restructuring our operating budget for next fiscal year based on current and anticipated funding cuts and operating restrictions. A major challenge will be preparing a budget for FY 2005 that eliminates any dependence by non-Section 8 units on Section 8 administrative fees.

We anticipate recommending to the Board that it use its scheduled regular meeting of May 25, 2004, as a 2005 budget study session, at which more detailed background and analysis can be presented. We would anticipate that the budget discussion would continue to the Board meeting in late June.

Agency staff and I look forward to working with the Board to prepare a sound financial plan for the coming year. Your support is invaluable as we once again sail uncharted waters.

Sincerely,

Alex Sanchez
Executive Director

Attachments:

Washington Post article, April 21, 2004: "Administration Alters Rules for Rent Aid"

Letter to from U.S. Senator Barbara A. Mikulski to HUD Secretary Alphonso Jackson, April 21, 2004

L.A. Times article, April 6, 2004: "L.A. Plans to Reduce Rental Aid for the Poor"

Washington Post article, April 13, 2004: "Bush Aims to Localize Rent Aid"

Letter from industry groups to HUD Secretary Alphonso Jackson, February 20, 2004

washingtonpost.com

Administration Alters Rules for Rent Aid

Housing Advocates Criticize Section 8 Changes

By Amy Goldstein
Washington Post Staff Writer
Wednesday, April 21, 2004; Page A21

The Bush administration is changing the nation's largest program of housing assistance so that, for the first time, the government no longer is promising to pay the full cost of rent vouchers that help nearly 2 million poor families.

The Department of Housing and Urban Development is putting into place the new payment method for the program, a cornerstone of federal housing policy known as Section 8, before Congress decides whether to endorse a broader proposal by the administration that would eliminate many longtime federal rules governing which people get rent assistance and how much they must pay.

The payment change, which is infuriating congressional Democrats and advocates for affordable housing, is essentially a different route for the administration to accomplish a central goal of its larger proposal: to constrain rapid growth in the program's spending.

Section 8 is a form of housing assistance that was created three decades ago and traditionally has been more popular among Republicans than the nation's network of public housing, because it relies on the private market. The program allows poor families, disabled people and the elderly to obtain a rent voucher -- 1.9 million are available this year -- from a local housing authority and take it to any private landlord in the community who is willing to accept it.

Until now, the government has allotted each of the nation's 2,500 participating housing authorities a specific number of vouchers each year, set rent limits for every community and then reimbursed their costs. Under the new method, HUD pays each housing authority based on its costs last August, adjusted by an inflation formula. That formula is not guaranteed to keep pace with rent increases.

The method is so new that HUD has not formally notified housing authorities in writing, although federal officials have made it retroactive to January and have begun to talk about it with local agencies. HUD officials said they do not yet know how much money will be saved, although they said the program would run out of money for the year too soon if they did not make the switch.

Michael Liu, HUD's assistant secretary for public and Indian housing, said in an interview that, in changing the rules, the agency was following directions set forth in a few sentences in the fiscal 2004 appropriation that Congress finished two months ago, which gives $16.4 billion for Section 8. "We intend to implement the law," Liu said.

But the leaders of advocacy groups representing local housing officials and low-income tenants say that the language in the budget is ambiguous and that President Bush's housing advisers are misinterpreting it to justify changes they want.

Jonathan Zimmerman, a housing policy analyst for the National Association of Housing and Redevelopment Officials, said the organization's analysis suggests that at least 900 local housing authorities, spanning virtually every state, will end up this year with less money than they need to cover their vouchers' cost.

Sandra Henriquez, administrator of the Boston Housing Authority, said she learned from HUD a few weeks ago that federal payments suddenly were $1.2 million less than her agency needs to pay for its 11,000 vouchers. And because of other financial changes in the program that the Bush administration has made, her agency has used up the money it had in reserve.

"We're all just hoping HUD will come to its senses," Henriquez said. For the moment, she said, her agency will be unable to afford some of the vouchers it has been allotted. Her choice, she said, boils down to whether to deny vouchers to some of the poorest families in the program, who require the most government assistance with their rent, or to a larger number of participants with slightly higher incomes who can pay more of their own rent.

Massachusetts GOP Gov. Mitt Romney has sent HUD a letter of complaint, as have many of that state's congressional Democrats.

William P. Murphy, who directs the rental assistance division in Montgomery County's Housing Opportunity Commission, said he, too, believes he would be unable to afford all of his agency's rent vouchers.

Liu said HUD will consider giving housing authorities extra money if they can prove a hardship. Still, he said, low-income housing advocates who want to reverse the change "would put the program in an automatic deep hole."

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510–6025
www.senate.gov/~appropriations

April 21, 2004

The Honorable Alphonso Jackson
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

Dear Secretary Jackson:

I was shocked to read in *The Washington Post* today that the Department is proposing new, and potentially damaging, rules for the Section 8 program. The paper reports that the Department will not renew vouchers at payments high enough to keep pace with rent increases. This is unacceptable. HUD must take the necessary steps to ensure that every voucher currently in use stays in use.

The fiscal year 2004 VA-HUD appropriations bill provided $17.6 billion to renew expiring Section 8 contracts. This amount was $1.4 billion above the amount requested by the Administration to renew expiring vouchers. I fought to appropriate these additional funds so that no family would lose its housing assistance.

The Department must be fiscally responsible and a good steward of the taxpayers' dollars. I support the goal of controlling the costs of the Section 8 program, and of making sure that HUD does not pay inflated costs for Section 8 vouchers. However, the Department runs the risk of going to the other extreme; by not providing adequate funds to public housing authorities the Department could force families to lose their vouchers, or concentrate voucher holders in the poorest neighborhoods.

The Department clearly has the authority to provide housing authorities with the funds they need to serve all families in the Section 8 program. The Department has $1.4 billion more than it requested in its budget request and access to a central reserve fund to supplement voucher payments in the case of rent increases. In fact, HUD just provided additional funds to Massachusetts in order to prevent the loss of vouchers there. I urge you to take similar steps across the country to ensure that no family in America loses its housing assistance.

Sincerely,

Barbara A. Mikulski

Barbara A. Mikulski
Ranking Member
Subcommittee on VA, HUD
and Independent Agencies

Los Angeles Times
latimes.com.

http://www.latimes.com/news/local/la-me-rents6apr06,1,5006022.story

L.A. Plans to Reduce Rental Aid for the Poor

By Jocelyn Y. Stewart
Times Staff Writer

April 6, 2004

More than 44,000 low-income families in Los Angeles whose rent is subsidized by a federal program will be forced to rent cheaper units and contribute more of their monthly income to housing costs under changes proposed by HUD and recently approved by the city housing authority's board of commissioners.

The measure, which is part of an effort to address funding problems that have threatened the Section 8 program, decreases the monthly subsidy the program makes to house poor families.

Section 8 families that are planning to move will be affected immediately; subsidies will be lowered for all participants within the next two years, housing officials said.

In Los Angeles, about 95,000 people live in subsidized houses or apartments. Advocates and tenants worry that lower subsidies will make it tougher for families to find a place to rent — and harder to make ends meet each month.

"That means I don't get to have lights, gas and a phone," said Delilah Bowen, a former social worker who is disabled and lives on welfare.

The change is just one of many underway at the Housing Authority of the City of Los Angeles.

On Monday, the Housing Authority's board approved a memorandum of understanding with the Department of Housing and Urban Development that calls for the federal agency to play a greater role in its affairs.

The agreement calls for several changes, including the appointment of a new director of Section 8. Steve Renahan, the current director and a 20-year veteran of the agency, is expected to remain with the Housing Authority but not as the director.

At a meeting last week, Renahan told the agency's board that the decrease in monthly subsidies and other changes were recommended by HUD officials as something "we should do promptly to reduce costs."

The actions are in response to funding problems with Section 8. Under the program, participants pay about 30% of their income toward rent and the federal government pays the rest.

In February, the housing authority suspended the vouchers of 1,500 participants, citing a lack of funds. An additional 5,000 families in subsidized housing could have had their rental contracts canceled.

Local housing officials sought ways to reduce costs without displacing families, Renahan said.

"We want to try to find the balance between these two objectives," he told the board.

The decision to lower monthly payments is a significant, and some say troubling, move in a high-rent market like Los Angeles.

In past years, tenants with housing vouchers struggled to find landlords willing to accept the vouchers at a time when much higher rents could be charged on the open market.

The agency launched an aggressive outreach program to property owners and increased rent subsidies to mirror rents on the open market. As a result, more families found housing and poor families rented higher-quality units in neighborhoods with less crime and poverty, according to an authority report.

Because of budget constraints, that strategy is no longer viable. Families will be notified of the proposed decrease in payments at their next annual review. The decrease would go into effect the following year, officials said.

For a family renting a two-bedroom apartment, for example, the subsidy would decrease from $1,204 each month to $1,005.

For a family renting a three-bedroom apartment, the subsidy would decrease from $1,625 to $1,276.

Tenants who already pay about 30% of their income would be forced to move or cover a greater portion of the rent, provided the total amount they paid did not exceed 40% of their income.

But many tenants may be unable to pay that much. To participate in Section 8, tenants must be designated under federal guidelines as either "very low income" or "extremely low income."

In Los Angeles, a family of four, for example, with an income of $29,750 or less is considered very low income, according to HUD. A family of four with an income of $17,850 or less is considered extremely low income.

"This will make it more difficult for tenants to find landlords who will accept Section 8," said Larry Gross of the Coalition for Economic Survival, which organizes tenants of public housing. "It will force Section 8 tenants into a smaller area, helping to ghettoize Section 8 tenants."

Bowen, the former social worker, is already experiencing difficulty because her subsidy has been reduced. Bowen originally received a voucher that allowed her to rent a two-bedroom apartment for up to $1,250 a month.

"I was very fortunate to find [an] apartment," Bowen said. "I did everything they asked me to do. I completed all of the paperwork." But last week, housing authority staff informed her that the agency would pay only $1,125 for a comparable apartment in Pacoima, which is a 10-minute walk from her current one in Lake View Terrace.

"Because they haven't accepted the voucher, I'm trying to come up with the extra money to cover the voucher," said Bowen, whose arthritis and degenerative joint disease forced her onto disability, then welfare.

She and her 13-year-old son live on a monthly $511 welfare check while her application for Social Security is being processed. So far, she has not found the money to move to the new apartment, but has told the current owner she would move by Friday.

"I'm walking by faith, and I mean that," she said.

Irene Molina, 75, has already experienced her share of stress. City officials and owners of the apartment she lives in wrangled over the Section 8 program. The owners, who had sought to remove the building from the program, last year agreed to accept vouchers from Molina and other tenants. Now she has new problems to anticipate.

"It's a real big concern for her, because she is on Social Security," said Molina's daughter, Patricia. "She gets very little income as it is."

Paying more rent would be tough, "but if she would have to move, it would be devastating," said Patricia Molina, whose mother has lived in her apartment for 30 years.

Arnie Corlin, a property owner who sits on the board of directors for the Apartment Assn. of Greater Los Angeles, criticized both the decision to lower rent subsidies and what he called the inefficiencies of the Housing Authority. Lowered subsidies might push away owners, said Corlin.

"I don't feel it's fair to the tenants," Corlin said. "I also don't think it's fair to the owners."

In other action, the authority's board last week imposed a minimum rent of $50, which will affect about 500 tenants who pay less than $50 each month because their incomes are extremely low.

The board also voted to limit the annual increase to 3% for owners who rent to Section 8 tenants and whose buildings are under rent control.

Linda Williams, a housing advocate with the Legal Aid Foundation of Los Angeles, said the changes will hit especially hard because of the city's housing shortage.

"The quick fix they are trying to implement is on the backs of individuals who can't afford it: the elderly, the disabled, single moms with kids," she said.

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washingtonpost.com

Bush Aims to Localize Rent Aid

Money-Saving Plan Would Relax Regulation of Section 8

By Amy Goldstein
Washington Post Staff Writer
Tuesday, April 13, 2004; Page A01

The Bush administration is proposing to transform a cornerstone of the nation's housing policy for the poor, replacing a federal program that provides rent vouchers to 2 million families with a system that would give broad new powers to local housing authorities.

The idea, which is intended partly to save money, is a sequel to the administration's failed attempt a year ago to convert federal rent vouchers -- the government's largest form of housing subsidies -- into block grants run by states. It would bypass states, giving lump-sum payments directly to the nation's 3,000 public housing authorities, along with more freedom from federal rules than the White House envisioned last year.

This year's version would eliminate a long-standing rule that families in the program, known as Section 8, pay no more than two-fifths of their income in rent. It would erase a requirement that three-quarters of the vouchers go to families who are extremely poor. And it would omit the federal quality standards that have covered all the apartments and houses in which participants live.

In his second attempt to redefine Section 8, President Bush has changed important details but kept the philosophy behind the plan that was quickly decried last year by lawmakers of both parties and by many affordable-housing and anti-poverty groups.

Like the first one, the new proposal would extend to housing policy central ideas behind the welfare overhaul of the 1990s: reduced federal control and efforts to lessen low-income people's dependence on long-term public assistance. Like last year's, the proposal would replace a government guarantee of a specified number of rent vouchers -- currently 1.9 million -- regardless of cost with a specific sum of money for housing authorities to stretch as far as they can.

Section 8 has been a staple of federal housing policy for three decades. It is substantially larger than the country's network of government-owned "public" housing. The program allows poor families, disabled people and the elderly to get a rent voucher from a local housing authority and take it to any private landlord in the community willing to accept it. The tenant pays a portion of the rent, and the government pays the rest. Waiting lists have been growing around the country, and some housing authorities have closed their lists because they are so long.

Debate over the "Flexible Voucher Program," mentioned in a few sentences in the budget Bush released in February, is in early stages in Congress, which would have to approve it. Already, the plan is stirring some of the opposition that thwarted its predecessor.

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At a hearing this month, Sen. Christopher S. Bond (R-Mo.), chairman of the Senate Appropriations subcommittee that handles housing issues, said the proposal has "fatal flaws," providing too little money and directing rental help away from the families who need it most. Bond predicted the Senate would not have time to consider the plan this year. A spokesman for Rep. James T. Walsh (R-N.Y.), chairman of the House Appropriations subcommittee that considers housing, said Walsh was not prepared to discuss the proposal.

Michael Liu, the Department of Housing and Urban Development's assistant secretary for public and Indian housing, said in an interview that the proposal would create greater "flexibility and simplicity," allowing local housing authorities to serve more people, serve them better and decide who most deserves the help.

Liu said that, under current rules, housing authorities cannot give out more than their allotted number of vouchers, even if they have money left over. In addition, he said the program no longer would require federal rent standards for each community, giving housing authorities incentives to secure the lowest possible rents. And, he said, the government would create financial incentives for housing authorities that can move people quickly out of assisted housing or steer them toward homeownership, a major goal of Bush's housing policy.

The plan carries no requirement that housing authorities serve as many people as they do now; instead, HUD would create an acceptable range, perhaps 90 percent to 105 percent of their current number of clients, Liu said. In addition, the program no longer would be guaranteed to keep pace each year with increasing rents, but it would include a still-undefined inflation adjustment. And housing authorities could choose to focus mainly on working families with higher incomes than the typical Section 8 participant today.

In the Washington area, the rule changes would have pronounced effects. The current requirement that 75 percent of the vouchers go to people making less than 30 percent of the local median income means most vouchers in the area are distributed to families making less than $25,000 a year, according to Sheila Crowley, president of the National Low-Income Housing Coalition. The proposal would allow an unlimited share of the vouchers to go to families with incomes up to 80 percent of the local median income; as a result, Washington area families with incomes of nearly $68,000 could take part, Crowley said.

The proposal, Liu said, responds to a trend in which Section 8 has accounted for an escalating share of HUD's budget, from 36 percent of the agency's spending in 1998 to about half today. Other HUD officials, speaking on the condition of anonymity, said the proposal is intended not to cut the program but to slow the rate of increase; next year, it would save $1.6 billion, they said.

Budget figures, however, show that the increase Bush has proposed for Section 8 next year, from $16.4 billion to $16.9 billion, includes funds not spent in previous years. Excluding those funds, the administration's investment decreases.

Liberal policy analysts and some affordable-housing advocates say they worry about the budget changes and the loss of federal rules. One of the constituencies the administration was counting on for support -- public housing directors, who opposed last year's idea of state control -- say they like the prospect of greater freedom to set their own rules. Still, Timothy G. Kaiser, executive director of the Public Housing Authorities Directors Association, said, "We cannot support the proposal based on the funding levels."

Crowley of the low-income housing coalition said: "This is not about good housing policy. This is really

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just about figuring out how to contribute to deficit reduction. It's much worse than last year."

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April 9, 2004

The Honorable Alphonso Jackson
Secretary
U.S. Department of HUD
Room 10000
451 7th St., SW
Washington, DC 20410

Dear Secretary Jackson:

The undersigned groups are writing to express concerns about the implementation of the renewal formula from the **FY 2004** omnibus appropriations bill for the Section 8 Housing Voucher Choice program.

We are concerned that HUD's interpretation of the FY2004 omnibus appropriations language will result in a funding shortfall that was not envisioned by the Congress, while at the same time failing to use all the voucher renewal funds appropriated by Congress. Under HUD's interpretation, HUD will fail to spend $175 million to $310 million of the funds Congress appropriated for voucher renewals.

HUD's intention to limit cost per unit adjustments to the number of vouchers under lease at August 1, 2003 adjusted for inflation will **not** provide sufficient funds for PHAs to support the current number of voucher-assisted families under lease. We believe the statutory language and conference report support a renewal procedure that bases per unit costs on the most recently available data as provided by the PHA.

We understand that reasonable disagreements may occur when interpreting statutory language, particularly when congressional intent may be unclear. However, we believe that Congress fully expected its appropriation would provide adequate monies to fund all vouchers under lease at their actual cost through the fiscal year. There is no reason for HUD to create a shortfall.

HUD's interpretation will affect numerous families by requiring them to unexpectedly pay more income for rent and would likely result in the loss of vouchers to existing families. As a matter of public policy, we are troubled that HUD would support this outcome. Further, HUD's interpretation raises confusion in the private sector about the ability to rely on HAP contracts. Not only will this dampen landlord enthusiasm to participate in the program, but will worsen an existing concern about appropriations risk in the lending community.

We believe that our interpretation of the renewal method is fully consistent with the text of the statutory language. And, because it best avoids error in either over-funding or under-funding based on erroneous fixed per unit costs, this method best comports with the Department's obligation to apply the funding provided by Congress in a manner that will serve the maximum number of authorized families under lease.

We urge HUD to reconsider its intentions with regard to the FY04 renewal funding formula and offer our support in affirming congressional intentions in this regard.

Sincerely,
Council for Affordable and Rural Housing
Institute of Real Estate Management
Institute for Responsible Housing Preservation
National Affordable Housing Management Association
National Apartment Association
National Association of Affordable Housing Lenders
National Association of Home Builders
National Leased Housing Association
National Low Income Housing Coalition
National Multi Housing Council

cc: Senator Richard Shelby
Senator Wayne Allard
Senator Paul Sarbanes
Senator Kit Bond
Senator Jack Reed
Representative Mike Oxley
Representative Barney Frank
Representative Jim Walsh
Representative Bob Ney

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NAHRO
building communities together

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April 30, 2004

The Honorable Alphonso Jackson
U.S. Department of Housing and Urban Development
451 Seventh Street SW
Washington, DC 20410-0500

Dear Secretary Jackson,

I am writing to thank your staff for meeting with industry representatives on April 27 to discuss the renewal of housing choice vouchers and to inform you that we have reviewed your PIH Notice 2004-7 dated February 22, 2004. NAHRO continues to have significant concerns and remains opposed to the manner in which the Department's FY 2004 Section 8 renewal policy is now being carried out. We are particularly concerned that aspects of your current Flexible Voucher proposal; namely converting the current program from a unit-based to a dollar-based program, have now become Administration policy.

NAHRO will continue its work with our members to measure the full impact of this policy -- a task complicated by the lack of technical clarity in PIH Notice 2004-7. However, by applying each agency's FY 2004 Annual Adjustment Factor to their average Housing Assistance Payment cost as of August 1, 2003, our preliminary estimates indicate that a large number of housing agencies will receive insufficient 12-month renewal funding. Use of project-reserves and HUD's Central Reserves would reduce the number of low-income families adversely affected. Nevertheless, thousands of low-income families may be harmed as a result of funding shortfalls.

Although not specifically mentioned in the Notice, HUD's current practices mandate that housing agencies offset renewal funding shortfalls by their fiscal year end dates rather than giving them until December 31, 2004. We believe these shortened time frames will compound the problem and increase the total number of families at-risk by a multiple of approximately six to one.

We urgently call upon the Department and Congress to postpone the formal implementation of this policy until such time as the full impact of its effect can be measured and prudent steps taken to avoid displacement of families. Recognizing however, that many local housing agencies have either already or shortly will receive their funding allocations for Section 8 renewals, we call upon you to take the following immediate steps to minimize the negative impacts of the renewal formula on low-income families.

- Give housing agencies until December 31, 2004 to offset renewal funding shortfalls rather than requiring them to offset any shortfall by their 2004 fiscal year end (FYE) dates (June 30, Sept. 30, Dec. 31 and Mar. 31). This step would provide immediate

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relief, allowing many agencies with June 30, 2003 FYE dates to avoid issuing housing assistance termination notices to offset their funding shortfalls.

- Ensure that inflation factors are applied to the Aug.– Dec. 2003 period as well as calendar 2004. This can be accomplished by applying FY 2003 annual adjustment factors (AAFs) to cost data collected Aug. – Dec. 2003, then applying FY 2004 AAFs for calendar year 2004. (We believe that continuous application of the applicable inflation factors is legally required.)

- Where applicable, replenish agencies' one-month project reserves from FY 2003 for allowable purposes, under the FY 2003 law.

- At the close of each agency's fiscal year, efficiently redistribute any program reserves in excess of one month to agencies experiencing shortfalls.

- Re-examine lease-up rates based on statutory flexibilities, as is more fully discussed in the attachment to this letter.

Please see a full explanation of our rationale for these procedures as an attachment to this letter. We stand ready to work with you to implement these measures. Our goal is to avoid an unnecessary and tumultuous displacement of families while we seek to resolve our fiscal and public policy differences on this issue.

In general, NAHRO believes that Congress has provided adequate funding for agencies' 12-month renewal of all authorized vouchers leased, a one-month project reserve for each agency, and a Central Reserve, so that Congress's historic commitment to fund the program on a unit-based actual cost basis can be upheld. We also continue to believe that the Department has the leeway under applicable law to implement a renewal formula that would more accurately reflect actual Housing Assistance Payment (HAP) costs than that provided under PIH Notice 2004-7. Within the confines of the Section 8 Housing Choice Voucher renewal provisions of the FY 2004 omnibus appropriations act (Public Law 108-199), HUD could avert housing assistance cuts by providing funding based on agencies' actual HAP costs, as reflected in the latest available data (quarterly data submitted by agencies on HUD form 52681-B).

NAHRO recognizes the need for some restraint in the growth of the Section 8 program's costs. We do not agree that drastic measures are required in order to achieve this however. This is particularly so in light of Congressional Budget Office estimates that Section 8 HCV program costs will be within national inflation levels over the next five years, without such measures. And in all events, NAHRO advocates preserving the original principles of the program while controlling cost in a manner that does not disenfranchise low-income families, property owners, housing agencies, and the communities in which they operate. We therefore will be calling upon the authorization committees of both houses to take whatever actions may be necessary, including the possible convening of a Section 8 summit, that would bring the appropriate stakeholders to the table with members of Congress and the administration to discuss ways in which the interests and concerns of all parties can be addressed with specific regard to the renewal of FY 04 contracts. Further, we will urge that results of such a meeting and any

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hearings held on this subject in the foreseeable future be an essential part of deliberations on this subject in connection with congressional consideration of the HUD FY 05 appropriations bill and or other timely measures aimed at ensuring fully funding the renewal current housing choice vouchers.

In this regard, I want to express my agreement with Deputy Secretary William Russell, who, during our meeting on April 27, 2004, clarified that the connection between the few agencies that ended their fiscal years annually over-leased and the renewal funding issue at hand. For all intents and purposes, these issues are distinctly separate. There was a question which Mr. Russell was uncomfortable addressing on the spot, but which needs to be answered for all concerned. Namely, what is the exact amount of the budget shortfall HUD forecasts will occur, if authorized leased vouchers were renewed on the basis of actual HAP costs throughout FY 2004? With nearly $20.2 billion available to the Housing Certificate Fund for obligation in FY 2004, it appears that sufficient funding exists to operate the Section 8 program overall, including voucher renewals at actual HAP costs. Those present at the meeting have continuing interest in the answers to these questions. We urge HUD to provide Congress with the information necessary to assess the financial status of the Housing Certificate Fund.

In closing, NAHRO believes the Department's current renewal Notice is not in keeping with responsible reform and does more to create uncertainty and hinder program operations rather than help the program. The continued success of the voucher program depends on property owners, investors, developers, housing agencies, and low-income families all having confidence that vouchers are a reliable means of securing affordable rental housing and homeownership opportunities.

As always, NAHRO stands ready to assist the Congress and the Department in seeking solutions that will build a better program. Please feel free to contact me or my staff at 202-289-3500 if you would like to discuss the recommendations in this letter in further detail.

Sincerely,

Saul N. Ramirez, Jr.

Saul N. Ramirez, Jr.
Executive Director

cc: Dep. Sec. Roy Bernardi	Asst. Sec. Michael Liu	Dep. Asst. Sec. William Russell III
Senator Richard Shelby	Senator Kit Bond	Representative Barney Frank
Senator Wayne Allard	Senator Jack Reed	Representative Jim Walsh
Senator Paul Sarbanes	Representative Mike Oxley	Representative Bob Ney

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Attachment A

Give housing agencies until Dec. 31, 2004 to offset renewal funding shortfalls rather than requiring them to them offset any shortfall by their 2004 fiscal year end

HUD's PIH notice did not include mention of the effective date of the FY 2004 HAP renewal formula. Additionally, HUD did not include whether all affected agencies must offset their renewal funding shortfalls by their FYE date or whether every agency has until the end of the 2004 calendar year (the program year) to offset their renewal funding shortfalls. However, the Department's actions with several housing agencies with FYE dates of June 30, 2004 indicate that they are requiring agencies to offset renewal funding shortfalls by their FYE, not the program year end.

If HUD intends the effective date of the notice to be January 1, 2004 (which is not clearly stated), it stands to reason that the department should allow all agencies through December 31, 2004 to offset their renewal funding shortfall regardless of their FYE date. This is a reasonable request in light of HUD's several month delay in implementing the law and the retroactive application of renewal funding. While this issue is not addressed in HUD's notice, it will have major impact on LHAs and the communities they serve. In fact, many agencies are currently preparing notices terminating Housing Assistance Payment Contracts to be sent today, April 30, 2004, effective July 1, 2004.

NAHRO urges the Department to give each agency until December 31, 2004 to offset their renewal funding shortfalls. This would provide immediate relief, allowing many agencies with June 30, 2003 FYE dates to avoid issuing housing assistance termination notices to offset their funding shortfalls.

Ensure that inflation factors are applied to the Aug.– Dec. 2003 period as well as calendar 2004.

According to HUD's documentation to Congress, the Department's current inflation factor strictly applies each agency's FY 2004 AAF but omits their FY 2003 AAF for the last five months in 2003. HUD's PIH Notice 2004-7 does not mention whether or not HUD will apply the AAFs for the last six months of 2003 with each agency's 2003 AAFs, before applying the 2004 AAF for 2004.

In order to provide adequate renewal funding to housing agencies with per unit HAP costs above HUD's modest FY 2004 AAFs, HUD should provide accurate inflation factors from the time period in question, Aug. 1 – Dec. 31, 2003, to more accurately reflect their actual HAP costs. These inflation factors were debated during the 1999 negotiated rulemaking on the renewal formula undertaken by HUD and program stakeholders. Among other recommendations of the Neg. Reg. Committee mentioned below, the adequacy of agencies' one-month program reserves was discussed relative to concerns about the adequacy of HUD's AAF inflation factor methodology. (The Final Report of the Neg Reg Committee can be found at http://www.hud.gov/offices/pih/programs/hcv/nrac/final-committee-report.pdf)

Under the notice, LHAs may appeal inadequate AAFs but would be limited to cost increases related to market factors and analysis related to modest housing cost for the area. Therefore, increased HAP costs resulting in part due to decreasing household incomes or a greater proportion of larger sized households, or enhanced vouchers leased since Aug. 1, 2003, may not be covered by an agency's AAF appeal.

Also appeals of inadequate AAFs must be filed by July 15, 2004 and are subject to appropriations. Without advance knowledge of how many agencies may file such appeals, it is difficult to understand the impact on overall funding of renewals the cost of appeals may have. The appeal process is a poor substitute for a more accurate inflation adjustment described above.

NAHRO strongly recommends that HUD apply FY 2003 AAFs for the last six months of 2003 to account for inflation for the months from Aug. 1– Dec. 31, 2003. HUD's FY 2004 renewal formula freezes each agency's average Housing Assistance Payment (HAP) level at Aug. 1, 2003. While the statute does not say the inflation factor must be continuously applied, the intrinsic nature of an inflation factor implies that it should be continuous. We cannot find a case at HUD or elsewhere in the government where an agency arbitrarily skipped a period in following a statutory mandate that a cost be inflated. If HUD does not apply the 2003 AAFs for the last part of 2003, leaving a gap in which no inflation factor is applied to unit costs, agencies' renewal funding levels will be further compromised.

As you know, under existing regulations, housing agencies are required to update their utility allowance schedules annually. Many agencies updated their utility allowance schedules resulting in increased utility amounts between five to six percent of their annual Housing Assistance Payment levels. In many instances the rate of utility allowance increase alone exceeds the Annual Adjustment Factor amounts. Nevertheless, HUD has created an inflation adjustment appeal process instead of implementing a continuous inflation adjustment system based on both FY 2003 and FY 2004 AAFs for the applicable time periods, to better accommodate agencies whose utility allowance schedules increased.

Where applicable, replenish agencies' one-month project reserves from FY 2003 for allowable purposes, under the FY 2003 law

The FY 2003 omnibus appropriations law regarding replenishing agencies' one-month project-reserves, did not require agencies to request replenishment of those reserves. Instead, the bill compelled HUD (i.e. "shall" not "may") to replenish it within 30 days, when 50 percent of reserves was spent for allowable purposes. It is worth noting that last year replenishment could be made both for increased HAP costs and increased authorized leased units.

The FY 2003 Omnibus Appropriations law provided $391.9 million in a central reserve fund to be administered by HUD for amendments to Section 8 Annual Contribution Contracts, within FFY 2003 (through December 31, 2003). The central reserve fund was to be used to replenish housing agencies' one-month project reserves within 30 days of their spending at least 50 percent of it for either significant increases in per unit costs for vouchers or for costs associated with increases in the number of vouchers under lease as compared to the number of vouchers under

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lease at the time of the LHA's contract. Funds from LHAs' 12-month budget authority, one-month project reserve, and central fund reserve, can all be used to fund vouchers up to agencies' adjusted baseline ACC units (i.e. 100 percent of their contracted vouchers). Once the above requirements are satisfied, HUD was required to replenish LHA's one-month project reserves within 30 days of their request. LHAs' one-month project reserves were supposed to be replenished within each LHAs' fiscal year. NAHRO has received many reports from housing agencies that their one-month project reserves, which were spent for allowable purposes, were not replenished while others that did not need to use their one-month project reserves have no reserves as of December 2003 without explanation from HUD.

Efficiently redistribute any program reserves in excess of one month to agencies experiencing shortfalls

The FY 2003 Omnibus Appropriations Act provided $391.9 million for a central reserve fund to be administered by HUD for amendments to Section 8 Annual Contribution Contracts, within FFY 2003 (through Dec. 31, 2003). HUD is required to replenish an LHA's one-month project reserves within 30 days of their request and within the agency's fiscal year.

NAHRO believes that addressing this administrative problem is an important part of minimizing this unnecessary renewal funding allocation problem. Nationally there are adequate one-month program reserves that are not currently distributed among agencies such that agencies have access to one month of their annual HAP funding levels. As a result, hundreds of agencies that were not annually over-leased in FY 2003 are operating in FY 2004 with much less than one-month project reserves while others have none, and still other agencies are funded at amounts in excess of what they need. It is important to note that quarterly assessment and redistribution of the one-month reserves must be performed at agencies' fiscal year end and in the least disruptive manner possible. Quarterly redistribution should accomplish the goal of leaving each agency with an adequate one-month project-reserve while at the same time providing other agencies with HAP renewal funding for needs above their Aug. 1, 2003 level adjusted by inflation, with adequate 1-month project-reserves as well.

A type of quarterly redistribution of unspent funding was recommended by the Negotiated Rulemaking Committee in 1999. To date, the department has not implemented a quarterly redistribution of unspent funding.

Re-examining lease-up rates based on statutory flexibilities.

HUD's current method of calculating lease-up rates may be contributing to a gross classification of agencies as over-leased when in fact they are not. This practice may also be artificially limiting the amount of financial resources available to these agencies. Therefore, HUD's re-evaluation of its lease-up rate calculations should also be part of the solution to the FY 2004 renewal funding problem.

In order to take advantage of this option, HUD would need to revise its current interpretation of lease-up provisions of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) statute. NAHRO believes that HUD has the existing statutory authority under QHWRA to accurately restate LHAs' voucher lease-up rates and corresponding budget authority.

Revising this interpretation would be one important measure to help remedy the financial exposure of some agencies that received incremental vouchers. HUD's recently released study, "Costs and Utilization in the Housing Choice Voucher Program," found that the current calculation of incremental vouchers relative to each agency's FYE date has resulted in voucher lease-up rates that vary greatly. The study found that agencies which had *more* time between incremental voucher awards and their FYE date were less likely to be over-represented in their lease-up rates, and agencies that had *less* time between incremental voucher awards and their FYE date were more likely to be over-represented. HUD's study provides an indication of the problems created by HUD's current lease-up calculation method.

HUD currently excludes all incremental vouchers awarded and leased by LHAs from the denominator of their lease-up calculation until each voucher has been under HAP contract for 12 months or more. However, HUD *does not* exclude the portion of incremental vouchers brought under lease by LHAs from the numerator of this equation. This "apples to oranges" comparison results in some LHAs' voucher lease-up rates exceeding 100 percent, when in fact they have not leased more than their authorized adjusted baseline number of vouchers (baseline vouchers plus incremental vouchers).

By overstating the extent of over-leasing, HUD's current voucher lease-up calculation exaggerates the depth of agencies' fiscal problems, potentially increasing the number of property owners whose HAP contracts may be terminated on behalf of low-income families. In addition, it can have the effect of preventing these agencies from accessing program reserves and Central Reserve to support unit months under lease that are actually in excess of their annual authorized level. Correcting this miscalculation would make needed funding available to agencies erroneously considered annually over-leased.

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February 2, 2004

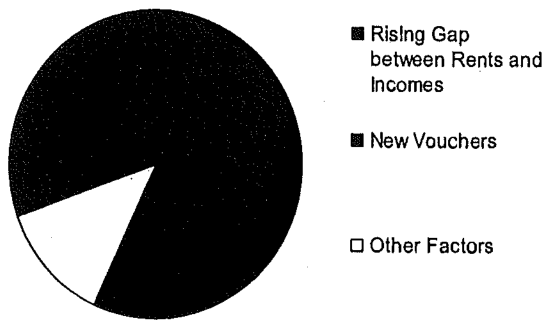
NEARLY ALL RECENT SECTION 8 GROWTH RESULTS FROM RISING HOUSING COSTS AND CONGRESSIONAL DECISIONS TO SERVE MORE NEEDY FAMILIES

Growth in Program Costs Set to Slow in Next Few Years

by Barbara Sard and Will Fischer

Administration officials have raised concerns that the Section 8 housing voucher program, the nation's principal low-income housing assistance program, has grown excessively in recent years. They have said the Administration's forthcoming budget will include proposals to reduce voucher costs.[1]

Causes of Section 8 Spending Growth 1996-2003



Analysis of total expenditures (or "outlays") for the Section 8 program, which includes both the voucher program and a "project-based" housing assistance program, shows that the great majority of recent Section 8 spending growth has been due to two factors: (1) Congressional decisions to expand the program to serve more of the families eligible for it; and (2) a widening of the gap between housing costs and the incomes of low-income families, especially during the recent economic downturn.[2] The good news is that the Congressional Budget Office and other analysts expect the growth in voucher costs to slow markedly in the next few years, due primarily to the cooling of the housing market.

Reasons for Past Growth in Voucher Spending

Over the past eight years, from 1996 to 2003, Section 8 expenditures have risen at an average rate of approximately 4 percent per year. Of this increase:

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[1]The New York Times reported that "housing officials" said the Administration was "alarmed at increases in the cost of vouchers" and the upcoming budget would "control the rising cost of housing vouchers for the poor." Robert Pear, "Bush's Budget for 2005 Seeks to Rein in Domestic Costs," *New York Times,* January 4, 2004, p. A1.

[2] We will release a more detailed description of the analysis shortly. The findings reported here are preliminary findings based on the best available data. If additional data are provided in the Administration's fiscal year 2005 budget request, which will be released on February 2, 2004, we will make revisions accordingly.

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- **Approximately 37 percent has resulted from a growing gap between housing costs and the incomes of low-income families.** Private market rent and utility costs rose at an unusually rapid pace in recent years, while the earnings of low-income families grew more slowly and then declined during the recent economic downturn. For example, from 2000 to 2002, rent and utility costs rose by 8.5 percent, while the average income among the bottom fifth of households *fell* by 1.6 percent. Since vouchers typically cover the difference between the cost of a modest apartment and 30 percent of a family's income, the government's cost in providing a voucher rises when the gap widens between the rental charge and a family's income.

  The widening of this gap accounts for the great majority of the recent growth in the average cost of a voucher. In fact, growth in per-voucher costs due to other factors, such as policy changes and increases in administrative expenses, accounts for only about five percent of the recent increase in Section 8 costs.

- **Approximately 51 percent of the growth in Section 8 expenditures stems from Congressional decisions to increase the number of families the voucher program assists.** In recent years, Congress has expanded voucher program enrollment in two main ways. First, Congress has provided vouchers to families that are losing certain other types of federal housing subsidies — such as public housing and assistance under federal mortgage subsidy programs — as a consequence of Congressional decisions to allow those subsidies to end. These vouchers account for about one-third of the total increase in the number of Section 8 subsidies from 1996 to 2003. Because they took the place of existing subsidies, these vouchers did not result in a net increase in the number of families receiving housing assistance, and the growth in voucher costs that these vouchers have engendered is offset to some degree by a reduction in expenditures elsewhere in the budget.

  Second, Congress created some new "incremental vouchers" between 1999 and 2002. These vouchers helped to reduce the number of eligible families unable to participate in the voucher program — and often stuck on long waiting lists — because of funding limitations. Only about one in every four low-income families eligible for vouchers receives any type of federal housing assistance.

- **Some increases in costs in recent years have resulted from successful efforts to reduce the number of unused vouchers.** The share of authorized vouchers that state and local housing agencies actually put to use rose from 90.5 of such vouchers in fiscal year 2001 to 96 percent midway through fiscal year 2003.[3] This increase reflects the success of efforts by HUD and state and local housing agencies to raise the proportion of authorized vouchers that actually are in use serving families. These efforts were undertaken after Congress expressed strong

[3] In the years prior to 2003, HUD provided some funds to state and local agencies for vouchers that were not put to use. These funds were counted as outlays, even though they were not actually spent on vouchers and were later recaptured by HUD. Consequently, only part of the increase of 5.5 percent or more in the share of voucher that were in use was reflected in increased outlays.

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Outlays Are the Appropriate Measure of Section 8 Cost Growth

The federal government measures budget trends in programs in two ways: by tracking changes in the amounts of new funding (or "budget authority") that Congress appropriates for a program, and by tracking changes in the level of actual program expenditures (or "outlays"). For the Section 8 program, these two measures paint sharply different pictures of growth in recent years. From 1996 to 2003, budget authority for the program grew at an annual rate of 19 percent, while outlays grew at an annual rate of 4 percent.

The important figures here are those for outlays. This is true for two reasons. First, it is outlays — or actual government expenditures — that determine a program's cost and its impact on budget deficits or surpluses. Second, the unusually large increases in budget authority for the Section 8 program are an artifact of a major change that was made in the Section 8 funding structure. Most Section 8 units were initially funded in the 1970s and 1980s through long-term contracts under which Congress provided up front *all* of the budget authority expected to be needed to support the units during the full term of the contracts, which usually was a period of *several decades.* Beginning in the mid-1990s, these long-term contracts started to expire, and Congress began providing new funding for these units on an *annual,* rather than a multi-year, basis. As a result, the amount of new budget authority needed to support the existing Section 8 units each year grew at a substantial clip. But this increase in budget authority *did not reflect an increase in program costs* or in the level of assistance provided.

Outlays for Section 8 units are recorded each year as they occur, regardless of whether the unit is under a long-term contract or a one-year contract. Outlay growth provides the only accurate measure of actual increases in Section 8 costs.

concerns that too many authorized vouchers were being left unused and were facilitated by a number of voucher program reforms that Congress encouraged or required and that HUD instituted.

CBO Projects Voucher Cost Growth Will Slow Considerably

Each of the factors that have driven the recent growth in Section 8 costs is temporary and is likely to ease in coming years.

- **Growth in market rents has slowed.** In fiscal year 2003, residential rents nationally grew at the slowest rate in six years. The full effect of this cooling of the rental market was not immediately reflected in Section 8 costs because of the way in which subsidy levels are determined in the program. But the full effect will be felt — and will slow the growth of voucher costs — in coming years. The reason for the lag is that HUD makes adjustments each year in the limits on how much rent a voucher can cover (these limits are referred to as "Fair Market Rents," or FMRs), using housing market data that in most cases are nine months old. In addition, after HUD adjusts an FMR, other administrative processes may result in it taking another year or more for the adjustment to be reflected widely in the rent-subsidy levels of individual families. As a result, the more rapid rent increases that occurred in 2001 and 2002 continue to influence voucher cost growth into fiscal year 2004, while the impact of the cooling of the housing

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market in 2003 will not be fully reflected in a slowdown in Section 8 cost growth until 2005.

- **Earnings of low-income families are likely to increase as the economy recovers.** Many families experience a temporary decline in income during a recession because a parent loses a job or has his or her work hours reduced. The substantial rise in unemployment since 2001 has directly increased Section 8 costs by making Section 8 rental subsidies larger, since the subsidies cover the gap between rents and 30 percent of household income, and household income has fallen as a result of the weakened job market. As the job market recovers and the availability of work increases, many families with vouchers will experience increases in income, which in turn will slow the growth of Section 8 costs.

- **Congress has provided no incremental vouchers since fiscal year 2002.** When Congress appropriates funds for additional vouchers, it takes some time for HUD to award the vouchers to state and local housing agencies and for the agencies to distribute the vouchers to families. New vouchers typically are not in use until the year *after* the year for which Congress approves them, and then, quite frequently, only for part of that year. As a result, the new vouchers approved in the fiscal year 2002 appropriations legislation did not result in increases in expenditures until fiscal year 2003, and it will take until fiscal year 2004 before the increases in costs will be felt for all 12 months of the year. Fiscal year 2004, however, also will be the first year since fiscal year 1999 in which *no new* incremental vouchers are put into use for the first time (although some new vouchers replacing existing federal housing subsidies will be put to use). And fiscal year 2005 will be the first year in some time in which virtually no costs for new incremental vouchers are incurred at any time during the year.

- **Recent growth in the percentage of authorized vouchers in use cannot continue at the same pace.** In late 2003 and early 2004, the percentage of vouchers in use may have risen modestly above the 96 percent level that it reached in mid-2003. But state and local housing agencies cannot receive funding for more that 100 percent of their vouchers. Furthermore, as a practical matter, there is virtually no chance that housing agencies on average will be able to put 100 percent of their vouchers in use. All of this means that it simply is not possible for the recent rate of increase in voucher utilization to continue.

For these various reasons, the Congressional Budget Office projects that growth in Section 8 spending will *slow to 1.8 percent in fiscal year 2005.* CBO also projects Section 8 expenditures will rise 5.5 percent in fiscal year 2004, which is well below the rates of increase in fiscal years 2002 and 2003.

The bipartisan, Congressionally-mandated Millennial Housing Commission described the voucher program as "flexible, cost-effective, and successful in its mission" in its 2001 report, while a 2002 study by the General Accounting Office found the program to be more cost-effective than other major federal housing programs. As this analysis of Section 8 spending growth in recent years indicates, most of the growth has been driven by a combination of rising

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housing costs and Congressional decisions to extend assistance to more low-income families, rather than by an erosion of program efficiency.

Careful steps to improve further the voucher program's cost-effectiveness would be worthwhile, as they would for any government program. There is, however, no need for drastic cost-cutting measures that risk harming the program and the more than two million low-income households — most of them working families, elderly people, or people with disabilities — that it serves.

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April 9, 2004

The Honorable Alphonso Jackson
Secretary
U.S. Department of HUD
Room 10000
451 7th St., SW
Washington, DC 20410

Dear Secretary Jackson:

The undersigned groups are writing to express concerns about the implementation of the renewal formula from the **FY 2004** omnibus appropriations bill for the Section 8 Housing Voucher Choice program.

We are concerned that HUD's interpretation of the FY2004 omnibus appropriations language will result in a funding shortfall that was not envisioned by the Congress, while at the same time failing to use all the voucher renewal funds appropriated by Congress. Under HUD's interpretation, HUD will fail to spend $175 million to $310 million of the funds Congress appropriated for voucher renewals.

HUD's intention to limit cost per unit adjustments to the number of vouchers under lease at August 1, 2003 adjusted for inflation will **not** provide sufficient funds for PHAs to support the current number of voucher-assisted families under lease. We believe the statutory language and conference report support a renewal procedure that bases per unit costs on the most recently available data as provided by the PHA.

We understand that reasonable disagreements may occur when interpreting statutory language, particularly when congressional intent may be unclear. However, we believe that Congress fully expected its appropriation would provide adequate monies to fund all vouchers under lease at their actual cost through the fiscal year. There is no reason for HUD to create a shortfall.

HUD's interpretation will affect numerous families by requiring them to unexpectedly pay more income for rent and would likely result in the loss of vouchers to existing families. As a matter of public policy, we are troubled that HUD would support this outcome. Further, HUD's interpretation raises confusion in the private sector about the ability to rely on HAP contracts. Not only will this dampen landlord enthusiasm to participate in the program, but will worsen an existing concern about appropriations risk in the lending community.

We believe that our interpretation of the renewal method is fully consistent with the text of the statutory language. And, because it best avoids error in either over-funding or under-funding based on erroneous fixed per unit costs, this method best comports with the Department's obligation to apply the funding provided by Congress in a manner that will serve the maximum number of authorized families under lease.

We urge HUD to reconsider its intentions with regard to the FY04 renewal funding formula and offer our support in affirming congressional intentions in this regard.

Sincerely,
Council for Affordable and Rural Housing
Institute of Real Estate Management
Institute for Responsible Housing Preservation
National Affordable Housing Management Association
National Apartment Association
National Association of Affordable Housing Lenders
National Association of Home Builders
National Leased Housing Association
National Low Income Housing Coalition
National Multi Housing Council

cc: Senator Richard Shelby, Senator Wayne Allard, Senator Paul Sarbanes, Senator Kit Bond, Senator Jack Reed, Representative Mike Oxley, Representative Barney Frank, Representative Jim Walsh, Representative Bob Ney

NALHFA

National Association of Local Housing Finance Agencies

HOUSING FINANCE UPDATE

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President: Norm McLoughlin

HUD Update

NALHFA and Others Express Concern Over HUD Policy Not Fully Funding Section 8 Renewals

On April 22nd, HUD's Office of Public and Indian Housing, issued a notice (PIH 2004-7) that changes the manner in which Section 8 rent subsidy contracts are renewed. Critics of the notice, and HUD itself, have said it will result in insufficient funding to renew contracts for all current voucher holders. HUD says that as many as 900 public housing agencies could be adversely affected by the new policy. NALHFA joined with several other national and local government organizations in a letter to the Chairman of the House and Senate HUD Appropriations Subcommittees asking them to direct HUD to suspend further implementation of the notice.

In the notice, HUD has changed the method by which it calculates the amount of each Section 8 payment. Previously, renewals were based on actual costs reported to HUD. Under the new standard, HUD will limit the average amount of funding for each voucher in use to the public housing agency's average cost per voucher during the period May-July 2003, plus an inflation adjustment to the rent based on a formula HUD has devised. Voucher costs for many public housing agency programs have risen more than the rent adjustment and will result in a shortfall. Some agencies have adequate reserves that will cover their shortfall, while others do not. In addition, many public housing agencies have voucher utilization rates in excess of 100%, which HUD says it will not cover. This overleasing is the result of pressure both Congress and HUD have placed on Section 8 administrators to improve voucher utilization. Additionally, HUD and Congress have struggled to contain the ever increasing cost of renewing Section 8 vouchers, now consuming more that 50% of the HUD budget. One approach that HUD could take to minimize the burden of the new policy would be to replenish the reserves of Section 8 program administrators. HUD has said it has yet to develop a policy on this.

The letter states that the policy (PIH Notice 2004-7) "… we believe, this policy will lead to extreme tenant hardship, dislocation, and eviction."

"Our members tell us that the HUD policy will result in significant funding cuts to their housing authorities, either now or in the future. This is because HUD appears to be using an inadequate inflation factor that fails to capture the true increases in housing costs in many communities. Apparently, HUD will not replenish PHA reserves, as the Department has done in the past, to cover unanticipated cost increases. While the impact is unclear, we understand that the shortfall could be as high as $300 million and adversely impact as many as 50,000 households across the country. The policy also threatens to undermine the financing of many affordable multifamily projects that rely on project based Section 8 assistance."

"Worse, the HUD policy would balance these cuts on the back of the seniors, persons with disabilities and families with children that are dependent on the program. Instead of providing the needed funding, the policy encourages PHAs to take actions that would result in discouraging work, lowering subsidies and displacing families. Additionally, the HUD policy suggests PHAs should duplicate and, in some cases, triplicate costly administrative procedures, thus wasting valuable resources that could be better used to provide affordable homes."

"We urge you to direct HUD to suspend further implementation of HUD Notice 2004-7 until such time as Congress, the Administration and all affected parties have reviewed the likely impact of this policy, the underlying intent of the FY 04 Appropriations Act in this regard an all possible remedies to address the ongoing cost of the Section 8 program. We also urge you to work with our organizations and HUD to ensure that all vouchers are fully funded and seniors, persons with disabilities and families with children are allowed to maintain their homes. "

Section 8 administrators are urged to contact their local HUD field offices to discuss their individual situation.

HUD Sends Congress New Housing Goals Rule for the GSEs

Earlier this month, HUD published a proposed rule increasing the housing goals for the Government-Sponsored Enterprises – Fannie Mae and Freddie Mac. The goals cover the period 2005-2008 and establish a new home purchase sub goal under each of the goals, increase the level of the special affordable multifamily sub goal and adds provisions to strengthen the integrity of data that the GSEs provide to HUD under the goals.

The current low-and moderate-income housing goal, which targets families earning an income equal to or less than the area median income, of 50% is increased to 52% in 2005, and rises steadily to 57% in 2008. The underserved areas (housing located in low-income and high minority census tracts) current goal of 31% rises to 35% in 2005 and climbs to 40% in 2008. The special affordable housing goal, which targets very low-income families below 60% of median income, currently at 20%, rises to 22% in 2005 and increases to 28% in 2008.

The special affordable multifamily sub goal is set at 1% of the GSE's average annual volume of mortgage purchases in the calendar years 2000-2002. For Fannie Mae, the current goal is $2.85 billion. It would rise to $5.49 billion for 2005-2008. For Freddie Mac, the comparable amounts would be $2.11 billion and $3.92 billion.

The housing goals were mandated in the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. HUD says it is proposing increased these goals because "...The GSEs have lagged, not led, the overall primary marketing providing financing for affordable housing to low- and moderate-income families, underserved borrowers, and their neighborhoods, indicating that there is more the GSEs can do to improve their performance." Once published in the Federal Register there will be a 60-day comment period on the new ruler. There after, HUD will publish the final rule.

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NAHRO Monitor - May 15, 2004

Renewal Formula Cuts Funding for Hundreds of LHAs

HUD recently promulgated PIH Notice 2004-7, which implements the Section 8 voucher renewal system for federal fiscal year 2004. This notice establishes a new renewal funding formula that would cap costs at those reported as of August 1, 2003 (as adjusted by HUD's 2004 annual adjustment factors). This is a change from 2003, in which renewals were based on actual costs reported quarterly by LHAs. While costs are capped, the notice indicates that agencies will be able to obtain additional funds to cover additional units leased since August 1, 2003 (up to authorized levels).

NAHRO's analysis shows that the new policy will adversely affect agencies whose costs exceed HUD's modest inflation factors, whether because of housing and utility market increases, tenant income stagnation, or a combination.

These shortfalls will be aggravated by two factors. First, HUD does not appear to have maintained standard one-month project reserves for many agencies (which could otherwise be used to fill shortfalls). Second, although not specified in 2004-7, HUD appears to be applying the formula retroactively back to January, and requiring agencies to make up any shortfalls by the end of their next fiscal years. This means that agencies with years ending June 30 are particularly at risk.

HUD apparently plans to reduce payments below levels specified in approved budgets if these amounts cannot be covered by the new formula and agency program reserves. According to the Notice (P. 7), "HUD will compare approved requisition amounts to the funding levels provided and availability of ACC reserves, and will reduce payments if they are not in alignment with the availability of funds."

Next Steps: Calculating the Impact on Your Agency
NAHRO has developed a spreadsheet to help agencies assess the impact of these changes on their agencies. As you know, Notice 2004-7 was vague with regard to critical details such as the exact calculation of the inflation factor and timing of implementation. However, the spreadsheet uses the best available information to help assess your agency's position.

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We are hoping you will use the results of this analysis to educate your communities and representatives in Congress about the impact of these changes. We would also like to hear about how these changes are affecting you - NAHRO is working with Congress to press HUD to change its approach to FY 2004 voucher renewals, and your information helps us in our congressional contacts.

In assessing amounts available to meet any shortfalls, the spreadsheet takes into account any of the one-month program reserves available to an agency. For FY 2003, HUD was required to replenish any program reserves used for authorized purposes once the agency had expended 50 percent of those reserves. However, data submitted to the Congress indicates that many agencies have far less reserves on hand than 50 percent. HUD officials have recently indicated that reserves may not have been replenished if agencies did not specifically request replenishment. Because the new funding scheme relies heavily on the use of one-month reserves to mitigate any shortfalls, it is important for your agency to know how much is available in your reserves. We strongly suggest that you contact the Financial Management Center to verify the status of your reserves. If your reserves stand at less than 50 percent, formally request that they be replenished as required by the FY 2003 appropriations act.

Now is also the time to ask the FMC for details on your renewal increments going forward. We suggest that you request the following from the FMC:

- Per unit cost used to calculate your latest (May) increment for HAP
- Number of units under lease used to calculate your latest increment
- Whether your June increment (for HAP) will be calculated differently than your May increment

Federal Budget Process Stalled

The stalled congressional budget process is likely to foreshadow a delayed appropriations process for FY 2005. The House and Senate passed their respective versions of the FY 2005 congressional budget resolution (S. Con. Res. 95) before the House's Easter/Passover recess in early April. Ongoing disputes over budget discipline measures, however, have stalled the congressional budget process in conference for over a month and lead to speculation that Congress may not adopt a House-Senate conference version of the resolution this year. The lack of a budget resolution may add more uncertainty into what already promised to be a rocky road for FY 2005 appropriations.

Budget Resolution Still Stalled Over PAYGO

Budget negotiators have been deadlocked on the question of whether budget pay-as-you-go (paygo) enforcement mechanisms should apply to tax cuts as well as spending. While the White House and House Republican leaders insist on exempting tax cuts from budget limits, four Republican Senators - Snowe (R-ME), Collins (R-ME), Chafee (R-RI) and McCain (R-AZ) - maintain that paygo should apply to both spending and tax cuts. (See related article "Enforcement Dispute Stalls Budget Resolution" in the April 15, 2004 edition of the Monitor, online at www.nahro.org/members/monitor/2004/0415.cfm#a).

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The deadlocked budget resolution process and underlying disagreements on budget enforcement also appear to have thrown a wrench into House leaders' plans to put a House Budget Committee-approved budget enforcement bill (H.R. 3973) on the floor before Memorial Day.

In the absence of a budget resolution, the law permits congressional appropriators to begin marking up the 13 appropriations bills after May 15. While appropriators have been holding hearings and working behind the scenes to prepare the bills, it is unlikely that markups on all 13 bills will begin this week.

Without the budget resolution, there may not be agreement between the houses of congress as to the amount available for allocation to the subcommittees. In the absence of an FY 2005 budget resolution or other action, for example, the Senate is still bound by a rule it adopted during last year's budget agreement, which limited total appropriations in FY 2005 to just $814 billion - nearly $9 billion below the President's request of $823 billion. In order to complete the appropriations process for FY 2005, Congress will have to come to some agreement as to the total amount of appropriations available for FY 2005. If previous years are any guide, the White House will figure prominently in negotiations on overall appropriations.

Appropriations by October 1 Unlikely

Even prior to the budget resolution hold up, there was widespread speculation that the appropriations process would not complete its appropriations bills before the October 1, 2004 start date of federal fiscal year 2005.

Both the House and Senate versions of the FY 2005 budget resolution would set overall appropriations level at $821 billion, about $2 billion less than the President had requested for FY 2005. While it is likely that certain appropriations bills -such as defense and homeland security - could be passed in relatively regular order, the cuts contemplated in other domestic funding bills could prove unpalatable to Congress, particularly in an election year. For example, many have predicted that the VA-HUD appropriations subcommittee is particularly at risk this year, estimating that its share of the overall pie (known as a "302(b) allocation") could fall as much as $4 billion short of the amount necessary to cover veterans', EPA, and HUD programs.

Guesses as to how Congress will handle appropriations this year have ranged from adoption of an omnibus spending measure incorporating all or most of the spending bills before October, to predictions of a full-year continuing resolution for FY 2005. Many speculate that several of the committees are unlikely to mark up bills prior to the November elections.

NAHRO will continue to update members on the FY 2005 appropriations process as details emerge.NAHRO members have already sent over 1100 letters to their representatives in Washington advocating for a responsible federal budget that provides adequate funding for housing and community development programs in response to a NAHRO Action Alert in April. This effort has been substantial and appreciated.

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May 4, 2004

Co-sponsor Legislation to Ensure Full Funding of Housing Vouchers

Dear Colleague:

I am writing to invite you to co-sponsor legislation to protect the longstanding policy of fully funding existing Section 8 housing vouchers from the threat that this policy now faces.

The legislation I am introducing amends the FY 2004 VA, HUD Appropriations Act to re-emphasize that Congress intends that Section 8 vouchers are to be funded based on a housing agency's actual costs. This is necessary because of the looming crisis with respect to the voucher program that is caused by HUD's mis-interpretation of the FY 2004 bill – and which could result for the first time in HUD failing to fully fund the cost of all vouchers.

On April 22, 2004, HUD issued a notice implementing the voucher provisions in the FY 2004 VA, HUD Appropriations conference report. HUD used a language change in that bill to justify their interpretation that it would no longer reimburse housing agencies for their actual costs, but would instead renew quarterly voucher funding based on an agency's per unit costs in August, 2003, adjusted only by a regional housing inflation factor. This inflation factor will not keep pace with actual costs for a significant number of housing agencies. HUD is compounding the funding shortfall by imposing the change retroactively, back to January of this year.

It is unacceptable for HUD to deny funding for voucher costs that housing agencies incurred under program rules. HUD's action is especially troublesome for those housing agencies with no program reserves. Such agencies are being forced to consider draconian actions, in some cases on a tight timetable because of the timing of their fiscal year. Their main options appear to include evicting families with vouchers from their homes or raising rents on families who cannot afford to pay more. It appears that a few housing agencies have already sent out notices terminating vouchers.

HUD's action is wrong on interpretation of legislative language and wrong on policy. Congress added $1 billion more to the Section 8 program in conference to ensure that all vouchers would be fully funded under the FY 2004 appropriations bill. HUD's action would contradict this Congressional intent. Moreover, HUD's action has the bizarre effect of using less accurate cost data, which can be more than a year old, instead of using accurate, up-to-date data that HUD has been collecting and using to calculate quarterly voucher renewals up until the recent change.

The solution to this looming crisis should be that HUD reverses its faulty interpretation. HUD could fully fund all vouchers by merely reverting to the renewal method in place prior to its April 22nd notice – but HUD refuses to do so. Therefore, this legislation would restore the practice of renewing vouchers based a housing agency's actual per unit costs in the prior quarter, adjusted by inflation for the intervening months. It also provides that this method be used for all renewals funded with FY 2004 money – thus undoing the retroactive cuts that HUD is now imposing.

To co-sponsor, email or call (at 5-7054) Scott Olson, Dominique McCoy, or Kay Gibbs.

Barney Frank
BARNEY FRANK

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108TH CONGRESS
2D SESSION

H. R. 4263

To clarify the calculation of per-unit costs payable under expiring annual contributions contracts for tenant-based rental assistance that are renewed in fiscal year 2004.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2004

Mr. FRANK of Massachusetts (for himself, Ms. PELOSI, Mr. CAPUANO, Mr. COOPER, Mr. CROWLEY, Mr. DAVIS of Alabama, Mr. DELAHUNT, Mr. ISRAEL, Mrs. LOWEY, Mr. LYNCH, Mr. MCGOVERN, Mrs. MALONEY, Mr. MARKEY, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. SABO, Ms. LORETTA SANCHEZ of California, Mr. SANDERS, Mr. SANDLIN, Mr. SHERMAN, Mr. TIERNEY, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To clarify the calculation of per-unit costs payable under expiring annual contributions contracts for tenant-based rental assistance that are renewed in fiscal year 2004.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF PER-UNIT COSTS.

(a) IN GENERAL.—Paragraph (1) of the item relating to the Housing Certificate Fund in title II of the Departments of Veterans Affairs and Housing and Urban

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Development, and Independent Agencies Appropriations Act, 2004 (division G of Public Law 108–199; 118 Stat. 372) is amended—

(1) by inserting "in each calendar quarter" after "and by applying"; and

(2) by inserting "in the most recent quarter for which the public housing agency has submitted such actual per unit cost information to the Secretary" after "actual per unit cost".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to all expiring section 8 tenant-based annual contributions contracts renewed pursuant to the paragraph referred to in subsection (a), whether such renewal occurs before, on, or after the date of the enactment of this Act.

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Section 8 Sign-on Letter

May 11, 2004

United States House of Representatives
Washington, DC 20515

Dear Member of Congress,

The undersigned organizations urge you to support and cosponsor H.R. 4263, introduced by Representative Barney Frank, to protect critical tenant-based rental housing assistance for low-income individuals and families across the nation and in your community. As a result of an extremely narrow interpretation by the U.S. Department of Housing and Urban Development (HUD) of its Fiscal Year (FY) 2004 appropriations bill, thousands of families potentially face rent increases they cannot afford or outright eviction from their homes.

Formatted: Justified

On April 22, 2004, HUD issued a notice retroactively implementing to January 1, 2004, the Section 8 voucher funding renewal provisions in the FY 2004 VA/ HUD Appropriations conference report. According to the notice, HUD will no longer reimburse housing agencies for their actual costs, but will instead renew quarterly vouchers based upon costs as of August, 2003. These costs would be adjusted by a regional housing inflation factor. This policy creates several injurious outcomes.

First, the annual housing inflation adjustment factor HUD intends to apply to the August 2003 voucher costs does not keep pace with actual costs for many communities. This creates a significant gap between what the Section 8 voucher will cover and the tenant's actual rental costs. The result is an untenable choice for property owners of either evicting residents who cannot pay the rent or accepting significantly reduced rents. Second, some housing agencies may have to cancel hundreds or even thousands of their current vouchers to meet HUD's new cost limitations. Finally, lenders who over many years have become comfortable with relying on annually appropriated government subsidies when making underwriting decisions, could be forced to either impose significant mitigation requirements on affordable housing transactions or reevaluate their participation altogether. Both scenarios have the same result – less of the vital private capital needed to develop and preserve affordable housing.

In short, HUD's policy penalizes the voucher holders who, through no fault of their own, now risk losing their housing assistance and the property owners who agreed to accept the Section 8 vouchers while endangering the financing for affordable housing in the long-term.

H.R. 4263 would amend the FY 2004 VA/ HUD Appropriations Act to satisfy Congress' stated intention that Section 8 vouchers be fully funded based upon a housing agency's actual per unit cost in the prior quarter, adjusted by inflation for the intervening months. This support for the program was reinforced by Congress in conference when it added $1 billion to the FY 2004 Section 8 program to ensure that all vouchers are fully funded. Under HUD's new voucher renewal policy, however, it appears that as much as $175 million of the funds Congress appropriated for vouchers could remain unspent this year at the same time as some families potentially face homelessness.

We urge you to support H.R. 4263 to help protect thousands of elderly, disabled and hard working families and individuals from losing their housing.

To co-sponsor the legislation, you may email or call (5-7054) Scott Olson, Dominique McCoy or Kay Gibbs.

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Institute of Real Estate Management

National Affordable Housing Management Association

National Apartment Association

National Association of Affordable Housing Lenders

National Association of Home Builders

National Association of Realtors

National Leased Housing Association

National Low Income Housing Coalition

National Multi Housing Council

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NATIONAL LOW INCOME HOUSING COALITION

President Bush's Housing Voucher Proposal Would Hurt Low Income Families

The Housing Voucher Program serves 2.05 million low income households, seniors, and people with disabilities. The Administration's FY05 budget for the Housing Voucher Program is $1.66 billion below the amount needed to fully fund all voucher currently in use. If enacted, the funding level would reduce the number of families receiving assistance by 250,000.

Further, the Administration proposes sweeping changes to the voucher program, with a goal of reducing federal spending on low income housing assistance. The "Flexible Voucher Program" would turn the program into a block grant to public housing agencies (unlike last year's proposal to block grant the voucher program to the states). Under the "Flexible Voucher Program" proposal:

- **Funding will change from a unit-based to a dollar-based system.** Instead of determining the appropriation each year by the actual cost of housing, the annual appropriation would be a set amount distributed to PHAs by formula. This is a fundamental shift in the design of the program from market-based funding to whatever Congress decides it can afford—a particular concern during this period of deficits, when Congress is searching for ways to limit spending.
- **The proposal will do away with important resident protections.** First, the proposal would repeal requirements that 75% of new vouchers to people with the most serious housing problems - extremely low income households (30% of area median income or less). Under the new proposal, all new vouchers could go to households with incomes up to 80% of area median income. Further, the proposal would eliminate the "Brooke Rule" that limits tenants' portion of the rent to 30% of their adjusted income.
- **The proposal explicitly does not include protections for families currently using vouchers** for rental assistance that would allow them to continue to be served under the new program. Indeed, given that PHAs would be under pressure to serve the same number of families with fewer dollars, families with extremely low incomes could be at risk of losing their vouchers to families with higher incomes. Homeownership voucher holders are protected.
- **PHAs would be financially rewarded for "graduating" tenants out of the voucher program.** The Administration asserts that its new program would "promote the concept that voucher assistance is a 'transition' program." But people earning the minimum wage and even higher often just can't afford modest market rents. Indeed, a voucher can allow a family to remain otherwise self-sufficient.
- **Vouchers could lose value.** PHAs would no longer have to base their subsidy amount of FMRs, and to save dollars, could choose a lower maximum amount of rent that would be covered as long as the amount is deemed "reasonable." As a result, individuals may have limited choice of neighborhoods. This could cause segregation and a concentration of poverty, two issues that vouchers were created to address and that were moving in a positive direction through the 1990s.
- **Enhanced vouchers would lose their value after one year.** The special protections provided by vouchers given to families that reside in a project-based unit that is converting to market rate would be valid only for one year, after which time families would be subject to the local PHA's rules. Currently, the family is allowed to stay in the converted unit while continuing to pay 30% of their adjusted income in rent.
- **Vouchers would no longer be portable.** Under the new program, no family could move outside of the issuing PHAs jurisdiction in the first year of assistance. This change would limit a family's ability to move closer to jobs or transportation.
- **PHAs could use all of their vouchers for homeownership.**